

San Diego County Superior Court Rules

APPENDIX H ORDER FOR BIFURCATION OF MARITAL STATUS

<Name of Self-Represented Party or Attorney>
<Address>
Telephone: (XXX) XXX-XXXX
Attorney for: <Name of Party>

SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO

In re the Marriage of:	CASE NO.
Petitioner:	STIPULATION AND ORDER/ORDER – [insert as appropriate] FOR BIFURCATION OF MARITAL STATUS
and	
Respondent:	

[Assumes Petitioner is party requesting bifurcation]
[Insert Appropriate Introductory Provision]

1. STATUS JUDGMENT [If motion filed]: The Petitioner's motion to bifurcate the status of the marriage from the remaining issues in the dissolution of marriage proceeding is granted and Petitioner will be entitled to proceed to obtain a Judgment of Dissolution of Marriage (Status Only).

1. STATUS JUDGMENT [If pursuant to stipulation]: Petitioner will be entitled to proceed to obtain a Judgment of Dissolution of Marriage (Status Only).

2. RESERVATION OF JURISDICTION: The Court severs and reserves jurisdiction over all other issues including, but not limited to, the nature and division of community property, spousal support, child support, attorneys' fees and costs.

3. STATUS OF TEMPORARY ORDERS: All temporary orders presently in effect will remain in effect until the time of trial or further order of the Court.

4. TAX CONSEQUENCES INCURRED: Petitioner must indemnify and hold the Respondent party harmless from any taxes, reassessments, interest, and penalties payable by the Respondent if the dissolution of the marriage before the division of the marriage before the division of the parties' community estate results in a taxable event to either of the parties by reason of the ultimate division of their community estate, which taxes would not have been payable if the parties were still married at the time the division was made.

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5. HEALTH AND MEDICAL INSURANCE: Until judgment has been entered on all remaining issues and has become final, the Petitioner must maintain all existing health and medical insurance coverage for the Respondent and the minor children as named dependents, so long as the Petitioner is legally able to do so. At the time the Petitioner is no longer legally eligible to maintain the Respondent as a named dependent under the existing health and medical policies, the Petitioner or the Petitioner's estate must, at the Petitioner's sole expense, purchase and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage. If comparable insurance is not obtained, the Petitioner or the Petitioner's estate is responsible for the health and medical expenses incurred by the Respondent that would have been covered by the insurance coverage, and must indemnify and hold the Respondent harmless from any adverse consequences resulting from the lack of insurance.

(#6. DOESN'T APPLY IF EMPLOYER HAS LESS THAN 20 EMPLOYEES AND IS NOT GOVERNED BY C.O.B.R.A.)

6. ADDITIONAL PROVISIONS RE: HEALTH INSURANCE: Where the Consolidated Omnibus Budget Reconciliation Act (C.O.B.R.A.) applies to health insurance coverage, Petitioner shall, unless relieved of this obligation by a writing signed by Respondent or Respondent's counsel, forthwith notify Petitioner's employer and do all acts necessary to insure that C.O.B.R.A. coverage is instituted for Respondent and is continued in full force and effect. If Respondent's rights under C.O.B.R.A. are terminated due to Petitioner's failure to institute and maintain proper coverage on behalf of Respondent, Petitioner, or Petitioner's estate, shall indemnify, reimburse and hold Respondent harmless from the loss of any and all benefits which would have been provided had Petitioner instituted and maintained C.O.B.R.A. coverage. Respondent will do any act reasonably necessary to facilitate Petitioner instituting coverage.

7. PROBATE HOMESTEAD: Until judgment has been entered on all remaining issues and has become final, the Petitioner must indemnify and hold the Respondent harmless from any adverse consequences resulting to the Respondent if the bifurcation results in a termination of the Respondent's right to a probate homestead in the residence in which the Respondent resides at the time the severance is granted.

8. PROBATE FAMILY ALLOWANCE: Until judgment has been entered on all remaining issues and become final, the Petitioner must indemnify and hold the Respondent harmless from any adverse consequences resulting to the Respondent if the bifurcation results in the loss of the rights of the Respondent to a probate family allowance as the surviving spouse of the Petitioner.

9. REAL ESTATE: Until a Judgment is entered on all remaining issues and becomes final, or until further court order, whichever occurs first, the parties are restrained and enjoined from transferring any real estate held by either of them personally or through or by any corporation, partnership or other entity in which they had or have any interest, to any person, business, or entity, without first giving the other party 30 days' written notice of any such proposed transfer.

10. SOCIAL SECURITY BENEFITS: The Petitioner must indemnify and hold the Respondent harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the Respondent would have been entitled to those benefits or elections as the surviving spouse of the Petitioner.

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11. PENSION BENEFITS: Until judgment has been entered on all remaining issues and has become final, the Petitioner must indemnify and hold the Respondent harmless from any adverse consequences resulting to the Respondent if the bifurcation results in the loss of the Respondent's rights to pension benefits, elections, or survivors' benefits under the Petitioner's pension or retirement plan to the extent that the Respondent would have been entitled to those benefits or elections as the surviving spouse of the Petitioner.

(#12: THESE ORDERS ARE DESIGNED FOR THE PLANS INDICATED; YOU MUST MAKE MODIFICATIONS IF THE PLAN IS EITHER MILITARY OR A GOVERNMENTAL PLAN NOT SPECIFICALLY INDICATED.)

12. RETIREMENT PLAN ORDERS: With regard to any pension plans or other forms of deferred compensation of either party, Petitioner's counsel shall file with this order the applicable Interim Qualified Domestic Relations Order re Survivor Benefits or Interim Order Acceptable for Processing re Survivor Benefits in the form of [insert **Appendix I** for PERS, STRS and ERISA governed plans. Insert **APPENDIX J** for Federal Civil Service System Plans (CSRS) or the Federal Employees Retirement System (FERS)] to the San Diego Superior Court Family Law Rules. Respondent's counsel shall cause a conformed copy of the proposed Interim Qualified Domestic Relations Order to be served on the Plan by certified mail.

12.1 PLAN JOINDER: The non-employee spouse must immediately join the Plan as a party to these proceedings.

12.2 FINAL ORDERS: Petitioner's counsel must submit to the plan or plans, after all property issues have been entered and become final, a final qualified domestic relations order, or if a plan is awarded entirely to the employee spouse, an order terminating the interim qualified domestic relations order re survivor benefits.

13. FAMILY CODE SECTION 1100: Until judgment has been entered on all remaining issues and has become final, the parties will continue to be considered as "spouses" under the provisions of Family Code Section 1100 and shall have the same duties and responsibilities to each other as though the Bifurcated Judgment of Dissolution of Marriage had not been entered.

14. ENFORCEMENT AFTER DEATH: If Petitioner dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this order is enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable prior to the Petitioner's death.

15. TAXES, ATTORNEY FEES AND HOLD HARMLESS ORDER: Petitioner, and in the event of Petitioner's death, Petitioner's estate, must reimburse Respondent for all damages and costs incurred as a result of Petitioner or Petitioner's estate's failure to abide by this Order including reasonable attorneys' fees, costs and accountants' fees either incurred in defending an action by any taxing authority or enforcing the provisions of this Order.

16. APPLICABLE LAW: All provisions contained in this Judgment of Bifurcation will be interpreted in conformance with California Family Code section 2337.

[Insert Appropriate Signature Provisions]

DATED: _____

Judge of the Superior Court

(Revised 1/1/2008)